

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

FFM: [REDACTED]

JF JAN 6 1982

Dear Sir or Madam:

We have considered your application for exemption under section 501(c)(4) of the Internal Revenue Code.

The evidence presented discloses you were incorporated, [REDACTED] for the following purposes:

- (a) To insure to the maximum extent possible that the concepts originally presented by [REDACTED] were maintained.
- (b) To seek a more effective voice in the present and future development of the island, while respecting the rights and legitimate objectives of [REDACTED] and the present property owners' association.
- (c) To monitor the present and future development of the island with reference to building, site selection, and construction.
- (d) To monitor the allocation of expenses for the maintenance of the island that are charged [REDACTED].
- (e) To assure that all construction be in conformity to the same standard, whether the builder be a private individual or [REDACTED].
- (f) To create and maintain a liaison mechanism with [REDACTED] management for regular meeting of [REDACTED] mutual benefit to both groups.
- (g) To do anything necessary and proper for the accomplishment of any purposes set forth in the statement of principles adopted by the founders of this association.

Your membership consists of homeowners or lot owners who desire to join. There are currently [REDACTED] owners eligible for membership and [REDACTED] actual members. The meetings are limited to members and the minutes of the meetings and newsletters are only available to the members. Your activities include keeping members abreast of the happenings on the island and providing for a centralized voice in airing complaints and a result of [REDACTED] [REDACTED] [REDACTED] deviating from the covenants.

In addition, you plan to conduct surveys and studies to determine the need for and type of community center and bicycle paths required for the Island. You have stated legal fee expenditures may be required in the future if you decide to contest a unilateral move by the company that violates the covenants.

Your receipts are derived from membership dues and assessments paid by members. Your disbursements consist of legal fees and operating expenditures.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes."

Section 1.501(c)(4)-1 of the Income Tax Regulations provides, in part, as follows:

"(a)(2)(i) An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements."

Revenue Ruling 74-99, 1974-1 C.B. 131, provides that in order to qualify for exemption under Internal Revenue Code section 501(c)(4), a homeowners association must serve a "community" which bears a reasonable recognizable relation to an area ordinarily identified; as governmental; it must not conduct activities directed to the exterior maintenance of private residences; and the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public.

Revenue Ruling 73-306, 1973-2 C.B. 185, holds that nonprofit corporation formed to promote the common interests of tenants who resided in an apartment complex by representing its members-tenants in negotiations with the management of the complex in order to secure better maintenance and services and to secure reasonable rentals is not exempt under section 501(c)(4) of the Internal Revenue Code. This ruling is based on the conclusion that the organization operated essentially for the private benefit of its members and was not primarily engaged in activities for the common good and general welfare of the people of the community.

Although your organization is not operated exclusively for the private benefit of your members and other property owners of [REDACTED], it is operated primarily for their benefit. While you do provide some benefit for the entire community these are not sufficient to meet the requirement that an organization be operated primarily for the promotion of social welfare.

Therefore, we conclude that you do not qualify for exemption from Federal income tax under section 501 (c)(4) of the Code, or any related subsections of the Internal Revenue Code.

If you do not choose to pursue this matter further, you should prepare Federal income tax returns on Form 1120 for the years indicated and file them with your Key District Director for exempt organization matters. Based on review of the financial information you furnished, it appears that returns for 1979, 1980 and 1981 should be filed. These returns should be filed within 60 days from the date of this letter unless a request for an extension of time is granted.

If you do not agree with our proposed determination, we recommend that you request a conference with a member of the Regional Director of Appeals Staff. Your request for a conference should include a written appeal signed by an authorized officer giving the facts, law, and any other pertinent information to support your position as explained in the enclosed Publication 892. If you are to be represented by someone who is not one of your authorized officers, he/she will need to file a power of attorney or tax information authorization and be qualified to practice before the Internal Revenue Service as provided in Treasury Department Circular No. 230. The conference may be held at the Regional Office or, if you request, at any mutually convenient District Office.

If we do not hear from you within 30 days, this letter will become our final determination.

Sincerely,


District Director

Enclosure:
Publication 892